



STATE OF INDIANA

AN EQUAL OPPORTUNITY EMPLOYER

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MEMORANDUM

TO: All County Treasurers and County Auditors

FROM: Bruce Hartman, C.P.A.
State Examiner

RE: Late Payment Penalties on Special Assessments

DATE: July 31, 2013

There have been some questions this year regarding the application of late payment penalties on special assessments. The issue seems to be whether or not a special assessment is part of the installment of property taxes for purposes of assessing the 5% penalty when an installment of property taxes is completely paid on or before the date thirty (30) days after the due date; and the taxpayer is not liable for delinquent property taxes due in previous installments as specified in IC 6-1.1-37-10(a)(1) or IC 6-1.1-37-10(a)(2).

IC 6-1.1-37-10(a) states: "Except as provided in sections 10.1 and 10.7 of this chapter, if an installment of property taxes is not completely paid on or before the due date, a penalty shall be added to the unpaid portion in the year of the initial delinquency. The penalty is equal to an amount determined as follows:

- (1) If:
 - (A) an installment of real property taxes is completely paid on or before the date thirty (30) days after the due date; and
 - (B) the taxpayer is not liable for delinquent property taxes first due and payable in a previous installment for the same parcel;
the amount of the penalty is equal to five percent (5%) of the amount of delinquent taxes.
- (2) If:
 - (A) an installment of personal property taxes is completely paid on or before the date thirty (30) days after the due date; and
 - (B) the taxpayer is not liable for delinquent property taxes first due and payable in a previous installment for a personal property tax return for property in the same taxing district;
the amount of the penalty is equal to five percent (5%) of the amount of delinquent taxes.
- (3) If subdivision (1) or (2) does not apply, the amount of the penalty is equal to ten percent (10%) of the amount of delinquent taxes."

It is our position that the special assessments are to be given the same treatment as property taxes and are to be treated as if they are a part of the installment of property taxes mentioned in IC 6-1.1-37-10(a) that if not completely paid on or before the due date, will result in a late payment penalty. Therefore, if either the elements in IC 6-1.1-37-10(a)(1) or the elements in IC 6-1.1-37-10(a)(2) are met the total delinquent installment amount (including the special assessment) is eligible for the 5% penalty. Likewise, if the elements of section 10(a)(1) or section 10(a)(2) are not met the entire installment of property taxes (including special assessments) are subject to the 10% late payment penalty.

This is a change from a presentation given at one of our conferences last year so please work with your tax system vendors to ensure proper treatment is given to special assessments billed but not paid until after the tax due date. We sincerely apologize for any difficulties this change in position has caused you. We have shared this position with the State Auditor's office and DLGF. Please share this information with your tax system vendors. If you have any questions do not hesitate to contact Tammy White or Debbie Gibson at (317) 232-2512.